

1 A The 1992 return.

2 Q Okay.

3 A If you go in to page 4 and where you see accumulated
4 adjustments account, Schedule M-2, down at the bottom there,
5 balance at the end of the year.

6 Q I see that, 63,277 right at the bottom.

7 A Yeah, yeah, right, so I think that -- it seems to me
8 they're identical numbers. I don't profess to be an
9 accountant but it seems that's -- it's reflected.

10 Q And I have another question for you. For example,
11 on the 1991 Form 4562, it identifies on the second page of
12 that form the FCC license as an asset of the, of the company
13 and there's a number 25,000.

14 A Where, where are you referring to, Mr. --

15 Q It's the 1991 Form 4562, the second page of that,
16 the second page of that form.

17 A I see it, yes.

18 Q Okay?

19 A Um-hum.

20 Q And just go -- the bottom half of that page it has
21 "Current assets," and among the current assets is the FCC
22 license with --

23 A I see, yes.

24 Q -- \$25,000 figure.

25 A Um-hum.

1 Q How did you arrive at that figure?

2 A I think that was when they -- when we bought the
3 station back in '87 they had to set up a depreciation table
4 and they had to allocate the various assets on that. And that
5 was a figure which was assessed to the, the authorizations.
6 It's for -- it's a, it's a allocation made which is driven by
7 determining what -- which of your assets are depreciable and
8 which are not. That I, I -- at that time the value of a, of a
9 license was an unpredictable item somewhat like goodwill was
10 in those days. And it's -- I believe that is continued on
11 from year to year. I don't -- yeah, you'll notice if you see
12 '91, '93, it always remains at \$25,000. It just stays that
13 way.

14 MR. SCHONMAN: Your Honor, ordinarily I would object
15 to an income tax statement which comes in that's not signed
16 which hasn't been demonstrated to have been filed. But I
17 think the numbers in the income tax forms here track the
18 financial statements and on that basis I'm not going to raise
19 the matter. But it is an observation that I'd like the record
20 to reflect.

21 JUDGE LUTON: All right.

22 MR. SCHONMAN: Can I just have a moment, Your Honor?

23 JUDGE LUTON: Sure.

24 BY MR. SCHONMAN:

25 Q Just need one more matter clarified regarding the

1 employees of Lobster and the employees of CAVAN.

2 A Um-hum.

3 Q We discussed this earlier today and I'm, I'm just
4 unclear on who at the AM station is employed by whom.

5 A Okay.

6 Q You mentioned Mr. Rebshur --

7 A Rebshur, Andy, Andy Rebshur.

8 Q -- as the chief engineer.

9 A He's the engineer.

10 Q And he's the engineer for both the AM and the FM
11 stations?

12 A Correct.

13 Q Is he an employee of CAVAN?

14 A Yes.

15 Q And Mary Mayo is the general manager of both
16 stations, correct?

17 A That is correct.

18 Q Is she an employee of CAVAN?

19 A Yes.

20 Q Does this LMA with Lobster also include the FM
21 station?

22 A No.

23 Q Is Lobster going to bring in its own general manager
24 then on April 1st?

25 A I, I believe they will. Well, I'm not -- it's a --

1 my understanding is that Mr. Schmursal will be spending a good
2 deal of time up there but not full time. And that Mr. Putnam
3 and Mr. Nelson and a Mr. Patterson who's a programming guy
4 will be -- I know of those three employees plus Mr. Schmursal
5 who will be involved in running the, in running the AM on
6 behalf of Lobster.

7 Q Are there any Lobster employees working at the
8 station now?

9 A Putnam -- Mr. Putnam and Mr. Nelson I am told are
10 doing production work because they have been pre-selling the
11 station and they're cutting commercials. Mr. Patterson has
12 been working on doing test runs on a local talk show just to
13 get familiarity with the board and the controls and switching,
14 whatever it is they do to get his show on and the satellite
15 show is stopped or suspended while they run his show. And
16 they're doing some dry runs on, on inserting local spots that
17 they will be selling and creating and just to get a feel for
18 how they plug in so they don't have dead air time or play over
19 the programming that they're picking up by satellite. So
20 they're dry-running this thing through and that apparently is
21 ongoing right now as we speak.

22 MR. SCHONMAN: I don't have any further questions,
23 Your Honor.

24 JUDGE LUTON: All right. Redirect?

25 REDIRECT EXAMINATION

1 BY MR. HUTTON:

2 Q Mr. Monahan, during the period of time the AM
3 station was silent, was there any time during which the tower
4 lights were not maintained and operated in accordance with the
5 FCC license?

6 A No, I -- if they went out we changed them and gave
7 the appropriate FAA notice locally, but we've always had our
8 -- we've always had a hot wire or a hot line down to the, down
9 to the AM transmitter site.

10 Q CAVAN acquired the AM station at what time?

11 A It was late-October or first of November of 1987.

12 Q And from that time until you received the order to
13 show cause and the hearing designation order in this case did
14 you ever receive any notice or communication of any kind from
15 the FCC indicating that CAVAN had violated a Commission rule
16 or policy?

17 A No.

18 Q I believe in a response to a question from
19 Mr. Schonman you indicated that the AM station began
20 simulcasting the programming from the FM station not long
21 after you acquired the stations. Is that correct?

22 A Well, no, it was -- frankly, I'm going back. My
23 thought was it was a year and a half or a couple years after
24 we acquired it that we shifted to simulcast as a, as a cost-
25 saving measure.

1 Q Okay. In light of the simulcasting, what
2 programming if any that would have been aired on the AM
3 station was not available to the residents of the local
4 community during the time the station was silent?

5 A I -- there were one or two programs that we used to
6 do on the AM on Saturday morning, a local program, but it --
7 that ran for I don't know, six months, which was separate that
8 was simulcast. But I don't know -- I can't recall whether we
9 terminated that before we began simulcasting or not. But I do
10 -- well, we were simulcasting at one time but we were also --
11 we reserved out for that half-hour or whatever it was, that
12 Saturday, that Saturday morning program, but it didn't get
13 very good acceptance so they stopped doing it and, and went
14 back to a full simulcast.

15 Q So, would it be accurate to say you believe they
16 were -- the station was operating in a full simulcast at the
17 time the transmitter problems caused the station to go off the
18 air?

19 A I believe that was correct, yeah.

20 Q So, would it be accurate to say that there was
21 no --

22 JUDGE LUTON: That's going to come out as leading.
23 Why don't you just ask the question --

24 BY MR. HUTTON:

25 Q I'm sorry. Well, I'll just leave it alone. During

1 what period of time did you work at Dow, Lohnes & Albertson?

2 A I was at Dow, Lohnes from 1969 through -- to July of
3 1993, this past year.

4 Q And why did you leave Dow, Lohnes & Albertson?

5 A I was originally from the State of Oregon and I -- a
6 law firm out there had approached me about, about moving to --
7 returning to Oregon as they said and one thing led to another
8 and the -- you know, all my family there and it just seemed
9 like maybe it's the time to do it. And so I made the decision
10 and, and tendered my resignation as a partner and moved out
11 there last July.

12 Q And did you -- have you continued your law practice
13 from Oregon or have you commenced a new line of, of work?

14 A No, I'm still, I'm still doing almost primarily
15 communications work, transactional work. Not a, not a great
16 deal different than what I was doing at Dow, Lohnes &
17 Albertson.

18 Q And prior to leaving Dow, Lohnes & Albertson what,
19 what period of time were you making preparations to leave and
20 to move to Oregon?

21 A June and July. My family made two cross-country
22 trips to get to Oregon because we, we moved, we moved
23 ourselves. I left -- I came back to -- let's see, I left --
24 we, we got to Oregon in early-July, did some house hunting,
25 got a house, and I came back in late-July or either -- late-

1 July or early-August and I was back in Washington for a week
2 to wrap up some details with the house we had here and put
3 some time in over at Dow, Lohnes and chat and it was during
4 that period that I'd spoken to Mr. Burtle because I was aware
5 this letter had come in, the July 23rd letter. And then my --
6 one of my younger sons was with me at the time, we, we left
7 Washington I think somewhere around the 7th or 8th of August
8 and we drove back out west and I got back out in, in Eugene
9 mid-month sometime. And the -- it was a, it was a big move.

10 Q And when you say your family, you're referring to
11 who?

12 A Well, my wife --

13 MR. SCHONMAN: Your Honor, I'm going to object to
14 this line of questioning. Mr. Monahan's background was
15 explored on cross-examination for the purposes of background
16 and I have no idea where this line of questioning is going and
17 it seems irrelevant beyond, beyond anything we've covered.

18 JUDGE LUTON: It does seem irrelevant, Mr. Monahan.
19 What are you seeking to do here besides take us through
20 irrelevancy?

21 MR. HUTTON: Well, Your Honor, this period of time
22 happened to be the period of time during which the
23 correspondence came in from the FCC, the July 26, 1993 letter,
24 indicating that the station was off the air without
25 authorization. And the purpose of this line of questioning is

1 to show that this was in the middle of a very hectic period of
2 time for Mr. Monahan.

3 JUDGE LUTON: But the witness himself hasn't
4 indicated the hectic nature of whatever he was involved in as
5 having anything to do with CAVAN's alleged nonresponse or slow
6 responses to Commission inquiries. So I don't see that the
7 testimony that you're eliciting explains anything. I mean to
8 say that it was during a hectic period and then stop and say
9 no more, the question is so what?

10 MR. HUTTON: All right. Then I'll move on to the
11 specific response --

12 JUDGE LUTON: Sustained.

13 BY MR. HUTTON:

14 Q Referring to attachment J to your testimony, did you
15 send this from Washington or did you send it from Oregon?

16 A This was, this was faxed from Oregon. We're
17 speaking of the, of the response of August 26th?

18 Q Yes.

19 A Yes. That was faxed from the law firm of Blue Boss
20 Cobb (phonetic sp.) in, in Oregon on the 26th.

21 Q And at this time was it your practice to obtain a
22 date-stamped copy of this type of correspondence?

23 A It had been. This was the first time I'd ever
24 responded from out in Oregon to it and I was doing this
25 because the deadline for getting it in was August 26th and I

1 had chatted with Mr. Lofty about getting the material in and
2 that's where I got her fax number to send the materials to
3 her. The FCC had a fax number and she, she may have even
4 suggested that they had a fax number if I wanted to get it. I
5 was -- I had been attempting to get ahold of Mr. Schmiersal to
6 get a letter from him and I didn't get a letter. He was -- I
7 don't know, he was either vacationing or something but he, he
8 couldn't get to the letter and he finally did get the letter
9 to me which is attached here. Yeah, the August 24th letter
10 was the letter I'd been waiting to get back from him to say
11 hey, I've been employed in your behalf, looking to find a
12 buyer.

13 MR. HUTTON: I have nothing further.

14 JUDGE LUTON: Recross?

15 MR. SCHONMAN: Nothing.

16 JUDGE LUTON: Thank you, Mr. Monahan.

17 WITNESS: Thank you, Your Honor.

18 JUDGE LUTON: You may step down. We're all done.

19 That then completes CAVAN's case, I take it. Is that correct?

20 MR. HUTTON: Yes, it is. Yes, Your Honor.

21 JUDGE LUTON: All right. Then there is nothing else
22 by way of evidence to be presented by either of the parties,
23 consequently, the record is closed.

24 (Whereupon, off the record.)

25 (Whereupon, on the record.)

1 JUDGE LUTON: The parties will submit proposed
2 findings of fact and conclusions of law by May the 20th and
3 reply to proposed findings by June 3, 1994. I say the record
4 is closed and if we have no other business which we do not, we
5 are adjourned. Thank you very much.

6 MR. HUTTON: Thank you.

7 MR. SCHONMAN: Thank you, Your Honor.

8 (Whereupon, off the record at 2:12 p.m., on
9 March 24, 1994.)
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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN THE MATTER OF CAVAN COMMUNICATIONS CORPORATION

Name

MM DOCKET NO. 93-299

Docket No.

WASHINGTON, D.C.

Place

MARCH 24, 1994

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 10 through 119, inclusive, are the true, accurate and complete transcript prepared from the reporting by MARYKAE FLEISHMAN in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

April 1, 1994

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